

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Petition for Exemption of the American Bankers Association)	CG Docket No. ____
)	
Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991)	CG Docket No. 02-278
)	

**COMMENTS OF FIRST TENNESSEE BANK NATIONAL ASSOCIATION IN
SUPPORT OF PETITION FOR EXEMPTION OF THE AMERICAN BANKERS
ASSOCIATION**

First Tennessee Bank National Association ("First Tennessee") urges the Federal Communications Commission ("FCC" or "Commission") to promptly consider the pending Petition for Exemption ("ABA Petition") of the American Bankers Association ("ABA"), which asks the Commission to exempt certain information calls from the restrictions of the Telephone Consumer Protection Act ("TCPA") on automated calls to mobile devices. Granting the Petition will benefit consumers, such as First Tennessee Bank's customers, by encouraging financial institutions to provide beneficial – and often legally mandated – communications to their customers.

**I. FIRST TENNESSEE SHARES THE EXPERIENCES AND CONCERNS
THE ABA DESCRIBES IN ITS PETITION**

First Tennessee is committed to protecting the privacy, security and integrity of its customers' personal information and financial transactions. First Tennessee also is committed to providing such protection in accordance with applicable laws and regulations. A major

component of the protection First Tennessee provides its customers is the automated delivery of time-sensitive, informational messages to their mobile devices. Unfortunately, this practice subjects First Tennessee to the risk of being named in a class-action lawsuit alleging that it sent such automated messages without having the recipients' prior express consent. If the FCC grants the petition of the ABA and exempts certain informational calls from the TCPA's restrictions on automated calls to mobile devices, First Tennessee and other financial services providers will be far better able to further and to achieve the dual objectives of protecting their customers and doing so in accordance with applicable law.

II. TYPES OF MESSAGES TO BE EXEMPTED

First Tennessee agrees that protection of consumers' privacy and financial security would be furthered if the FCC granted the ABA's petition and exempted the following messages from the TCPA's restrictions on automated calls to mobile devices: (1) messages designed or required to protect consumers from fraud and identity theft; (2) messages regarding data security breaches; (3) messages containing information about remedial steps to be taken in the event of identity theft or other fraud; and (4) messages regarding the transfer of money between consumers.

First Tennessee suggests further that the FCC consider exempting messages that a financial services provider would need to send its customers in the event of an "act of God" that may impair the electronic transmission of financial transactions and thus, impair consumers' access to payment methods or funds. Clearly, calls "made for emergency purposes" already are exempt from the TCPA's restrictions on automated calls to mobile devices. However, because the term "emergency purposes" is defined as "calls made necessary in any situation affecting the health and safety of consumers" [47 CFR 64.1200(f) (4)], it is not clear that the "emergency

purposes" exemption would extend to calls made to mobile devices to alert consumers that access to their funds or payment methods may be impaired by a *force majeure* event and to inform them of alternative access methods.

III. PROPOSED CONDITIONS

First Tennessee agrees with, supports and would cooperate in the implementation of the conditions proposed by the FCC in Section V of its Petition. Further, First Tennessee joins the ABA in urging the FCC to grant the relief requested in the various pending petitions cited in footnote 30.

IV. CONCLUSION

First Tennessee strongly believes that it is in the best interests of consumers to receive notifications related to identity theft, suspected fraud on accounts and remedial steps to take in connection therewith, receipt of transferred money and impairment of access to accounts or funds in the most efficient and timely manner possible. First Tennessee appreciates the opportunity to comment in support of the ABA Petition, and urges the Commission to reach a prompt and favorable conclusion.

Respectfully submitted,



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First Tennessee Bank National Association
SVP, Retail Payment Strategy